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# DESIGNING FOR IMPRISONMENT: ARCHITECTURAL ETHICS AND PRISON DESIGN

DOMINIQUE MORAN, YVONNE JEWKES, AND COLIN LORNE



## INTRODUCTION

Architectural ethics has only begun to consider in earnest what it means, in a moral sense, to be an architect.<sup>1</sup> The academy, however, has yet to adequately to explore the ethical problems raised,<sup>2</sup> to evaluate the types of moral issues that arise, and to develop moral principles or moral reasons that should guide decisions when encountering these moral issues inherent in certain project types. This is the case despite the practice of architecture entailing “behaviours, our choices of which may be illuminated by ethical analysis.”<sup>3</sup> Although distinguishing practice from product allows ethical critique of the practice involved in designing buildings, and recognises the significance of the architect’s moral agency, there remains very little empirically-based understanding of how the

FIGURE 1:

HM LOW MOSS PRISON

architect, once identified as a moral agent, operates as such, and still less about the circumstances in which ‘professional’ conduct may be at odds with ‘ethical’ behaviour.

Architects encounter moral dilemmas in everyday practice, in designing buildings to address clients’ briefs. Although they may undertake moral consideration when accepting or declining commissions, analyzing this process is in its infancy in architectural and ethical scholarship, consequently little is known about how architects balance moral concerns against the need for profitable work. Although McNeill has characterised the architects’ refrain ‘if we didn’t design it, someone else would’ as a “worrying abdication of ethical responsibility,”<sup>4</sup> it could alternatively be viewed as exhibiting direct moral concern, that if they themselves do not undertake a particular commission, another architect (or possibly non-architect) would, and possibly with much worse consequences, under what Wisor has termed the “moral problem of worse actors.”<sup>5</sup>

Prison design, as a building type, thrusts the ethical role of the architect sharply into focus. Design is a key element in prison modernisation programmes, and a staple for many firms. But architects’ involvement is not without controversy. The problematic nature of prisons themselves, (their questionable effectiveness in deterring criminal behaviour or enabling rehabilitation, and the ethically dubious practices which may take place within them), has meant that the legitimacy of incarceration is continually debated. As physical objects of the carceral estate, prison design offers a compelling ‘test case’ for how the role of the architect can be legitimately conceived as ethical.

It seems little progress has been made since Banham registered his concern that the architecture profession acts as a “black box,”<sup>6</sup> drawing and making objects rather than designing in relation to social and ethical issues. Although the profession readily assumes responsibility for aesthetic design of buildings as commodity-objects, as well as legal obligations surrounding delivery, architects as professionals are more uncertain about their moral responsibilities towards those who inhabit or are affected by their buildings.<sup>7</sup> To counter the ‘black box’ mentality Jeremy Till has called for architects to deploy architectural intelligence as responsible agents concerned less with the production of abstract objects, and more with their role in enabling wider social processes, thereby engaging their ongoing complicity with the social consequences of their actions.<sup>8</sup>

prove effective in allowing us to gain some perspective on the ethics of prison design requires us to review previous thought on this topic.

Thomas Fisher argued that in his Continental ethics, Karsten Harries treated architecture “primarily as a *product*, not a practice,” resulting in an ethical perspective “that attaches moral values and their realisation to *buildings*, not to the people who build them”<sup>9</sup>(our emphasis). Although the relationship between ethics and aesthetics has long preoccupied scholars of architectural ethics, as evidenced by Wasserman et. al.’s assertion that “a building’s aesthetic embodiment is a part of its virtue, its ethical value,”<sup>10</sup> in creating buildings which are aesthetically pleasing, there may be a tendency to equate their beauty with notions of their healthiness, sociability, democracy, sustainability and social justice, just as there is sometimes an assumption that buildings which are less aesthetically pleasing are somehow ‘worse’ on these counts. However, Fisher described the attachment of moral value to buildings as a form of “mysticism;”<sup>11</sup> a building might be “inhumane in that it is bleak and uninhabitable. It does not follow, nor is it intelligible to suggest, that the building itself has inhumane values.”<sup>12</sup> It is, he argued, on the basis of this misassignment of values that Harries offered an ‘impossible vision’ of artefacts reflecting values without the moral input of the individual (moral) agents who created them. Fundamentally, Harries’ approach failed to recognise the significance of the architect’s moral agency in the practice of architecture. Fox concurred that the built environment is not an appropriate focus of moral concern; the “non-rational, non-sentient, non-living, non-self-organising, non-self-renewing, built environment is not... of moral consequence in its own right.”<sup>13</sup> He continued: “questions regarding built environments should only enter into moral discussion in so far as these environments are considered to matter to, impact upon, or in some way affect, those kinds of beings or entities

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in respect of which we think we have direct moral obligations.”<sup>14</sup>

This urge to focus on architectural practice and the moral agency of the architect points up an important distinction between ‘architecture’ and the practice thereof, with both Fisher and Fox having argued that philosophical ethicists have not yet adequately explored the ethical problems posed by architectural practice. Instead, most of the attention has been confined to such legal considerations as intellectual property and to responsibilities to clients; core elements of business ethics for the design of any building, not just a prison, and equally applicable to architects, building contractors, and any other professionals involved in design and construction. Fisher, however, claimed that architecture merits its own branch of applied ethics, arguing that it has special issues as a consequence of the idiosyncrasies which distinguish it from the arts, sciences and social practices. Previous attempts to address architectural ethics have, he argued, failed to produce worthwhile outcomes. The way to identify architectural ethics, he contended, is to “place architectural practice, and thus the architect as *moral agent*” and not just legal or professional operator, at the centre of focus<sup>15</sup> (our emphasis). As Carroll put it, “there can be no question that architects as designers of built environments can use their skills for good or ill, morally speaking.”<sup>16</sup> The identification of architectural practice, rather than product, as the location of ethical agency is a useful philosophical advancement, but the practical operation of this agency is opaque. Professional architectural codes of conduct or of ethics, such as those introduced by the Royal Institute of British Architects (RIBA), or the American Institute of Architects (AIA), are relatively ineffectual in relation to the architects’ moral obligations.<sup>17</sup> These codes of conduct represent general guiding principles and rules of conduct which express the considered opinion of the profession primarily on business ethics, in part to protect the profession against liability problems. In the main, they focus on business, fiduciary, insurance or liability functions. As codes of conduct, these stipulations are rigid and do not facilitate individual, flexible ethical choice. Motivation for obedience is driven by compulsion, membership requirements and punishment for violation.

These codes of conduct tend to focus on protecting the client (the person who procures the services of the architect) and as a result they often appear deficient as vehicles for advancing the greater good. Clients’ priorities, however, may be short-term, exploitative, commercial, and detrimental to user wellbeing or to environmental concerns. In this case, serving the client through fulfilling this kind of code of conduct may be highly antithetical to achieving these worthwhile goals. While codes

contain platitudes towards the environment and the public, they contain little incentive beyond telling architects to act within the law. Thus, Till's assertion that acting professionally is different from acting ethically, and that the two operate according to different parameters, makes sense here. Professional conduct is determined by adherence to various codes, whereas ethical conduct addresses the wider responsibilities of the architect, to those "in respect of which we think we have direct moral obligations"<sup>18</sup> including those beyond the immediate client.

The omission of these wider responsibilities towards others who stand to benefit or suffer from architects' buildings gains particular poignancy when applied to consideration of those who have little say in the matter of whether or not they want to inhabit them. Thus, ethically motivated architects must, at minimum, concern themselves with a social ethic extending beyond the short term fiscal exchange of architectural commissions. As Till pointed out, "a client may argue that they are not paying for an architect to address these broader ethics, and an architect may say that the whole idea of wider responsibilities smacks of idealism"<sup>19</sup> The point is though,

*that issues of social ethics are inherent in the design of any building, and just to ignore them does not mean that they will go away. Better then to face up to them, and in this way deal with the tension between the values and priorities attached to the professional codes and those implicit in social ethics.*<sup>20</sup>

By 'social ethics', Till meant the ethics concerned with social context and social implications, and which pertain to a collective vision of a 'good' society in contrast to ethics which focus on the on the more contractual concerns regarding what we owe to one another. Although Till did not refer here to any particular circumstance of architectural commissioning in which professional conduct with

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clients was at odds with ethical behaviour in the social sense, the role of architects in designing prison buildings can be beneficially examined in exactly these terms. In the remainder of the paper we therefore consider prison design as a test case for the social ethics of architectural practice.

#### ARCHITECTS' SOCIAL ETHICS OF PRISON DESIGN

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If the ethics of architecture is a nascent philosophical field, then the philosophical study of the practice of architecture within the correctional field, namely the design of prisons, is embryonic. Philosophical discussion of architectural ethics rarely focuses on any particular type of building, in line with Taylor's assertion that buildings themselves cannot be the targets of moral criticism: "moral criticism presupposes moral agency, and so is only appropriately applied to people and their actions, not to inanimate objects."<sup>21</sup> Although judging it appropriate to critique of the practices of the people involved in designing buildings, he argued that buildings as inanimate objects are morally innocent. Having said this, Taylor hints, in his demonstration of this point, at the ethically questionable nature of prisons; "a building constructed *for an evil purpose*, such as a dungeon, might later be used for a good purpose, such as an exhibition space or a chapel, and vice versa."<sup>22</sup> (our emphasis)

If for Taylor a dungeon serves an 'evil purpose', then he is in accord with retired architect and writer Arthur Allen, who surveyed the history of architectural scholarship as it pertains to imprisonment. Allen found that "the provision of architectural service to institutions that aggravate rather than resolve the problems they are asked to manage is a complex issue arising in the operation of confining buildings."<sup>23</sup> In a survey originating with the idealism of nineteenth century penal institutions, he observed that there was no published architectural concern on the subject of the suffering caused by prisons until a discussion in 1973 in the magazine *Architectural Forum*, which urged that "architects consider withdrawal from design of prisons for non-violent inmates."<sup>24</sup> Allen argued that the "proposition that architects can and should consider the record of success or failure of their clients' intentions and operations is at the heart of this problem."<sup>25</sup> In narrowly observing their internal professional codes of conduct, in terms of integrity, honesty and diligent design in matters of structural safety and so on, some architects still, he argued, pretend innocence of the conflict between professional and social ethics in their work.

In 1977, Allen began publishing about the moral agency of architects with respect to incarceration. He questioned the architect's "traditional

obedience”<sup>26</sup> in the case of prison building, noting that although they built them, architects seldom wrote about or discussed prisons. Encouraging architects to be more attuned to the prison debate of the time, he argued that

*...if [the prison debate] concludes that imprisonment is unavoidable, then I can agree that decent architecture will have its place. If prisons, however, are found to be ineffective instruments of misery, then architects must question their part in the prison business.*<sup>27</sup>

Addressing the moral agency of architects, he later wrote that “the architectural profession is unusually silent, even evasive, concerning the moral character of its clients;”<sup>28</sup> and considering the language architects use to discuss clientele, and architecture’s apparent isolation from social debate, he argued that:

*If architects design prison cells, which in their dreadful simplicity are designed for solitary confinement, then surely architects and architecture are implicated in the mental and physical destruction which occurs in these cells. If there is any doubt about the cruelty of solitary confinement, or of imprisonment, I suggest that architects read social, rather than architectural, criticism.*<sup>29</sup>

He effectively argued that by using a technical jargon to describe buildings, architecture creates a professional mystique which avoids making reference to the moral or political character of the patrons of architecture, contributing to what he described as “a wide language gap between architects and writers on the issue of imprisonment.”<sup>30</sup>

Terms such as ‘good design’, ‘pure, crisp and clean design’, and ‘visual logic’, enabled the architect to refrain from “comment on the moral and ethical character of captives and captors,” and to “flatter the institution with limited moral and ethical comment on the nature of its prison designs.”<sup>31</sup>

He also argued that euphemistic language is used by architects in public relations terms, in deflecting

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attention from troubling issues; for example in architectural designs where groups of cells are called ‘villages’ and corridors between ‘villages’ are called ‘walks’ or ‘streets’ – labels, through the use of which, he posited “we are only fooling ourselves.”<sup>32</sup> He concluded that:

*If architecture continues to support questionable institutions and movements, and to defend them with euphemistic and specially constructed ethical languages, then the profession's part in deception and its self-centred indifference to moral and ethical issues cannot be defended on moral and ethical grounds.*<sup>33</sup>

That the ethics of the practice of architecture within the correctional field has thus far been largely overlooked by the academy strikes us as remarkable. In 2004, ADPSR (Architects/Designers/Planners for Social Responsibility) launched a Prison Design Boycott for Alternatives to Incarceration in the United States, asking architects and allied professionals to refuse prison work. It asked architects to decline death chamber and Supermax prison commissions on the grounds of human rights violations. Supermax prisons are considered to inflict torture through long-term solitary isolation and the carrying-out of death sentences, which are considered to be *prima-facie* torture. This pledge campaign was not specifically aimed at the American Institute of Architects [AIA], but it asked the AIA to amend its Code of Ethics and Professional Conduct to prohibit the design of these facilities. Later, in 2013, ADPSR added a separate petition campaign asking AIA to amend their Code of Ethics to specifically prohibit the design of spaces intended for killing, torture, or cruel, inhuman, or degrading treatment. “Cruel, inhuman, or degrading” is a key human rights standard widely held to include solitary confinement of the kinds currently used within the United States, including but not limited to Supermax prisons. The campaigns triggered intense media debate but in December 2014, the AIA rejected the proposals. Although dialogue between AIA and ADPSR continues, the AIA position is essentially that ethical decisions rest firmly with architects’ practices, and with individual architects.

In narrowly observing their internal professional codes of conduct, architects can, Allen argued, pretend innocence of the conflict between professional and social ethics in their work. His suggestion of pretended ‘innocence’ perhaps invites an unwarranted scapegoating of architects, hence we argue for a better understanding of the contextual nature of the constraints architects face in acting in accordance with the moral values they may hold. Although we may speculate about these constraints, very little is understood of the socially embedded nature of ethical stances in relation to architectural practice, and the contextual nature of these

stances, for example, in relation to prevailing punitive philosophies. Punitive sentiment (i.e. the attitudes towards imprisonment widely held in a given context), and the nature of the processes through which prisons are built (e.g. privatisation, private financing, design and build contracts, competitive tendering) may predetermine the role of the architect and the nature of his or her involvement in prison design. In the highly incarcerative settings of the US and UK, architects' reluctance to address these issues may be due to the lucrative nature of projects generated when imprisonment is used politically to placate public anxiety. In essence, challenging public authorities and fellow professionals on substantial moral issues may damage business.

The commissioning of prison buildings varies in different contexts, shaping the capacity for architects to introduce design creativity into the process, and defining the nature of their involvement. In order to design with a concern for social ethics in mind, architects will need early involvement in a building project to creatively engage with and query the client's brief, rather than adopting a narrower technical role in relation to predetermined plans. Such an approach allows architects to include the client as part of the commission, rather than focus only on the building itself, thus enabling consideration of architecture's social ethics. The potential for such an approach, given the various financing and contracting processes in place in different contexts, may have profound implications for architects' deployment of moral agency in relation to the social context of imprisonment.

In the UK, for example, the Private Finance Initiative process means that consortia of contractors and architects tender for prison projects whose basic design has already been determined prior to the tender being offered by the Ministry of Justice, thus minimising architects' creative

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input, and perhaps also assuaging their sense of responsibility for the built outcome itself. This process only allows architects to participate as providers of an efficient process with predetermined outcomes. In the lower incarceration setting of Denmark, by contrast, tenders for prison commissions ask bidders to deliver their own designs for the prison, *ab initio*, with the result that architects have a much freer hand, and with it, a concomitant sense of responsibility. At the state level in the US, the design *ab initio* system prevails, but designs which appear too 'lenient' will not be successful: "at the end of the day, my clients are my clients. We've been told we can't make it look too good, because the public won't accept it."<sup>34</sup> It seems only reasonable to assume, then, that architects operating in different commissioning environments will see their moral responsibilities—as well as their options—differently. In other words, architects' ability to introduce more 'humane' elements into prison design in Denmark may act to assuage the ethical concerns felt by their counterparts in the U. K. If architects' ethical concerns are assuaged in this way, we believe that it is not necessarily through a form of the 'mysticism' of attaching moral value to a building so roundly critiqued by Fisher but through the anticipation of genuine improvements in people's lives that accrue because of architects' actions. Thus, the case of prison design suggests that concern over the ethics of not only architects' actions, but also the products of those actions due to their long-term consequences over peoples' lives is not at all misplaced and should be part of an ethically-motivated architect's deliberations.

Even the usually ethically-neutral subject of aesthetics becomes morally relevant in the case of prisons. It may be the case that restrictions imposed by clients on the design of prisons (e.g. predetermined plans offered for tender, issues of 'public acceptability' of designs, tight build budgets, preferred/cheaper layouts and finishes) may reduce the appeal of prison design to architects seeking to deliver humane, aesthetically pleasing buildings. Conversely, it is possible that architects focus on prison aesthetics to the detriment of concern for the lived experience of prisoners. Through the aesthetics of their prisons, architects communicate the purpose of imprisonment and the relationship between prisons and the community.<sup>35</sup> Aesthetically bland, functional, and rather nondescript exteriors of recently built UK prisons, for example, may be read as indicators of a loss of public empathy for prisoners.

#### CONCLUSION: PRISON DESIGN AS ARCHITECTURAL ETHICS IN PRACTICE

Architecture still lacks its own branch of applied ethics, in which

architectural practice, and the architect as moral agent, are focal. Whilst these issues are usually considered in rather abstract terms, we argue that prison design brings them more clearly into focus, enables advancement of discussion of the ethics of architecture, and enhanced understanding of the ethics of architectural practice. It does so in the context of the transition from ideal to nonideal theory in ethics and political philosophy, describing principles for the design of institutions and the conduct of persons in a moral and political order that is realistic, rather than utopian, and that asks how long-term ideal goals might be achieved, or worked toward, in ways that are morally permissible and politically possible as well as likely to be effective.<sup>36</sup>

With the exception of McNeill, there are few studies which consider how the architect, once identified as a moral agent, thinks and operates as such, and accordingly we know little about the moral issues arising from architecture's idiosyncrasies. Professional codes of conduct are generally expected to address these issues but, operating largely to protect the consumer procuring architects' services, and the profession against liability, they address business ethics rather than issues that arise out of architects' design function. Learning the declarative form of the professional codes of conduct cannot address the complex ethical demands of architectural practice.<sup>37</sup> Ethical conduct addresses social context, which exists beyond the short term fiscal exchange of architectural commissions, and involves longer term vision. Negotiating these commissions is not straightforward. The need to make a profit may compromise architects' ability to act on ethical concerns, compelling them to explore nonideal situations, the ways in which these dilemmas are addressed and worked through in relation to actual commissions accepted or declined, as well as any derivative duties discharged.

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We opened with a question about architects' negotiation of their moral roles. Tracing the nascent development of the philosophical field of architectural ethics, it is clear that philosophical discussion locates social responsibility with the individual architect as a moral agent--a stance confirmed both by the comments of professional architects, and by the reluctance of the AIA to assume any responsibility for the ethical conduct of its members beyond the standard professionalism of business ethics.

We argued here that taking prison design as a 'test case' enables a more grounded understanding of architects' navigation of ethical dilemmas beyond professional business practice, dilemmas which require them to address their wider responsibilities and to decide to whom, beyond the immediate client, they consider themselves to have obligations. In our view these obligations extend to both the prisoners who inhabit their buildings and suffer incarceration individually, and to a society which bears the collective burden of the economic and social costs of imprisonment. As professional architects' discussions of conscience make clear, architects' ethical roles beyond their professional responsibilities remain under-explored, as evidenced by the lack of academic debate over the ethical role of the architect in prison design, and despite longstanding discussion of the ethics of imprisonment itself.

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